

SEP 19 2002

**Before the State of South Carolina
Department of Insurance**

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

24

In the matter of:

SCDI File Number 2002-114721

Ola Bacon,

630 Skylark Drive, Suite D
Charleston, South Carolina 29407

**Consent Order
Imposing Administrative Penalty
And Allowing Licensure**

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Ola Bacon, an applicant for licensee as a State of South Carolina resident insurance agent.

In July 2002, Bacon submitted an application for an Insurance Agent's License. The application was denied because of an administrative action taken against her by the Georgia Department of Insurance on September 25, 2000 and her failure to disclose such administrative action on her "Application for Individual Insurance Agent's License". On her "Application for Individual Insurance Agent's License" she responded "No" to question two, "Have you ever been fined or been the subject of any disciplinary action, including suspension, cancellation, revocation, or refusal/denial by any insurance department, governmental regulatory entity, or other licensing authority?" Bacon contends her failure to respond appropriately was simply a matter of oversight on her part, her failure to disclose this information to the Department was inadvertent and not an effort to circumvent the insurance laws of this State.

Bacon was informed of her statutory privilege to request a public hearing to appeal the denial of the Application pursuant to the provisions of S. C. Code Ann. § 38-43-130 (Supp. 2001). Subsequently, however, the parties agreed, rather than proceeding toward a formal public hearing, to submit the entire matter to me, along with the specific recommendation, for my summary decision based solely on the record. That recommendation was that Bacon would waive her right to a public hearing, pay a negotiated and consensual administrative fine of \$300, and submit a new, properly completed application to the Department with the appropriate response to question two.

S.C. Code Ann. §§ 38-43-50 (2001) and 38-43-100 (Supp. 2001) require a candidate for licensure as a State of South Carolina resident insurance agent to be "trustworthy." S.C. Code Ann. § 38-7-140 (Supp. 2001) makes it unlawful to fail to provide required information or to supply false or fraudulent information to the Department with the intent to evade a requirement of the State's insurance laws, the failure to disclose a administrative action on an application could demonstrate untrustworthiness or lack of moral character.



Ola Bacon

Ola Bacon

After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law that Bacon failed to disclose her administrative action on the application. This violation of South Carolina's insurance laws casts doubt on her character and trustworthiness. I can, therefore, deny her application to be licensed as a South Carolina resident insurance agent.

However, under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. Section 38-2-10 (2) (Supp. 2001), I hereby allow Bacon to become licensed as a resident insurance agent and impose on her, as a precondition to her license, an administrative fine in the total amount of \$300, which must be paid within ten days of receipt of this consent order. I also hereby require, as a precondition to Bacon's licensure, that she submit a new, properly completed application on her behalf.

The parties have reached this agreement in consideration of Ola Bacon's good faith attempt to comply with the statutory requirements of this state and her assurance that in the future she will comply with the state's insurance laws, particularly providing accurate information in a timely manner. The parties expressly agree and understand Ola Bacon's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By her signature upon this consent order, Bacon acknowledges that she understands this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1998). Nothing contained in this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained in this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained in this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 1998), of the Director of Insurance, exercised either directly or through the Department to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is therefore; ordered that Ola Bacon shall within ten days of receipt of this consent order, pay through the Department an administrative fine in the total amount of \$300.

It is further ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Ola Bacon's licensing file.

This consent order becomes effective as of the date of my signature below.


Ola Bacon




Ernst N. Csiszar
Director

September 19, 2002 at
Columbia, South Carolina

I CONSENT:



Ola Bacon
630 Skylark Drive, Suite D
Charleston, South Carolina 29407

Dated this 17 day of September, 2002